CONTRACT MANAGEMENT OVERVIEW

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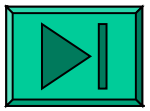
Contract Management

- Contracting Environment
- Acquisition Planning
- Selecting the Source
- Contract Administration

Go to end of briefing



Contracting Environment

- **Contracting Activities Sequence**
- **Flow of Authority**
- **Oversight and Guidance**
- **Guiding Principles**

Contracting Environment

Contracting Activities Sequence

Requirements

↓

Acquisition Plan

↓

Acquisition Package

↓

Solicitation

↓

Source Selection/Negotiation

↓

Award

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Contract Administration

↓

Delivery/Acceptance

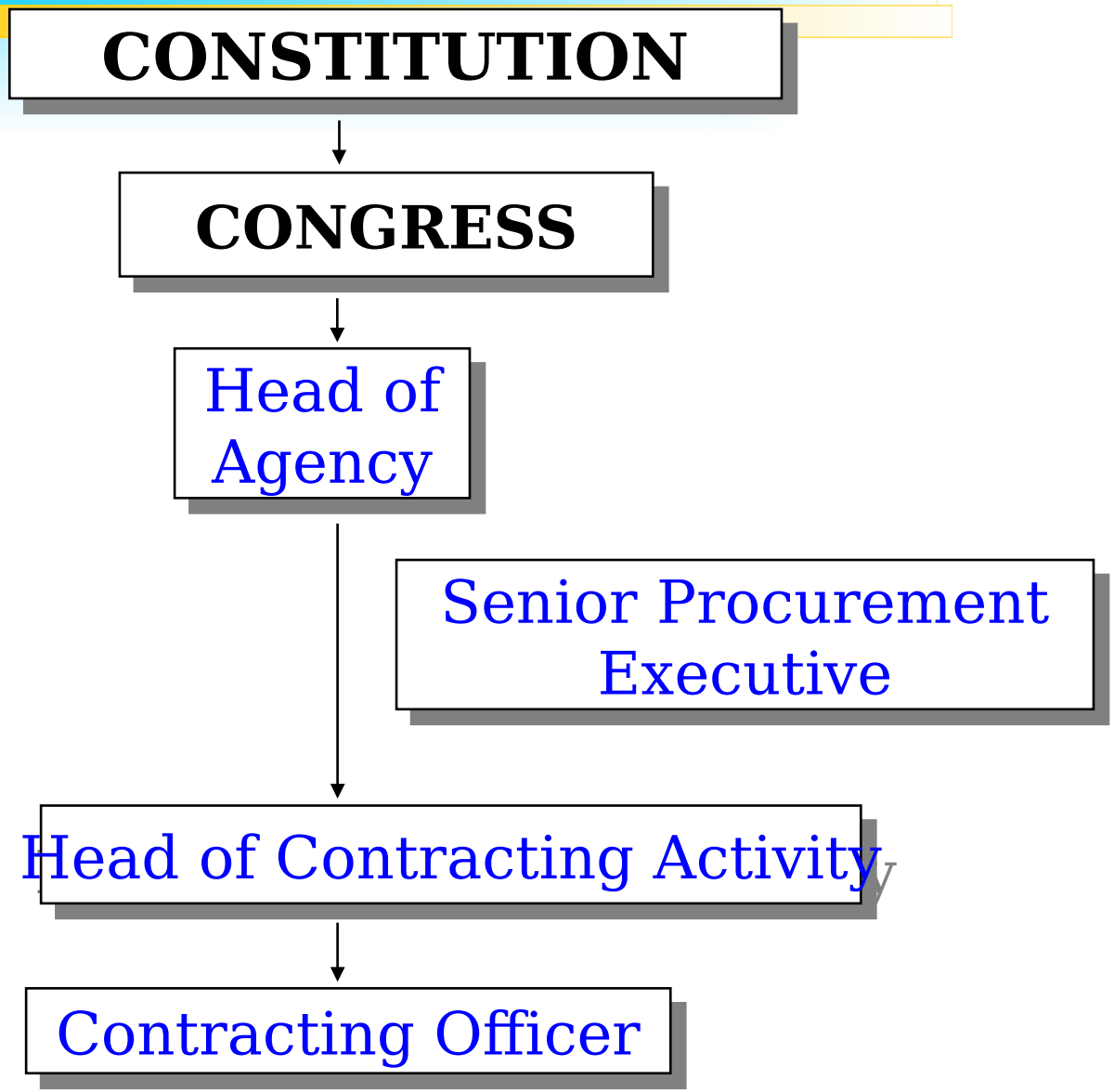
↓

Contract Closeout

↓

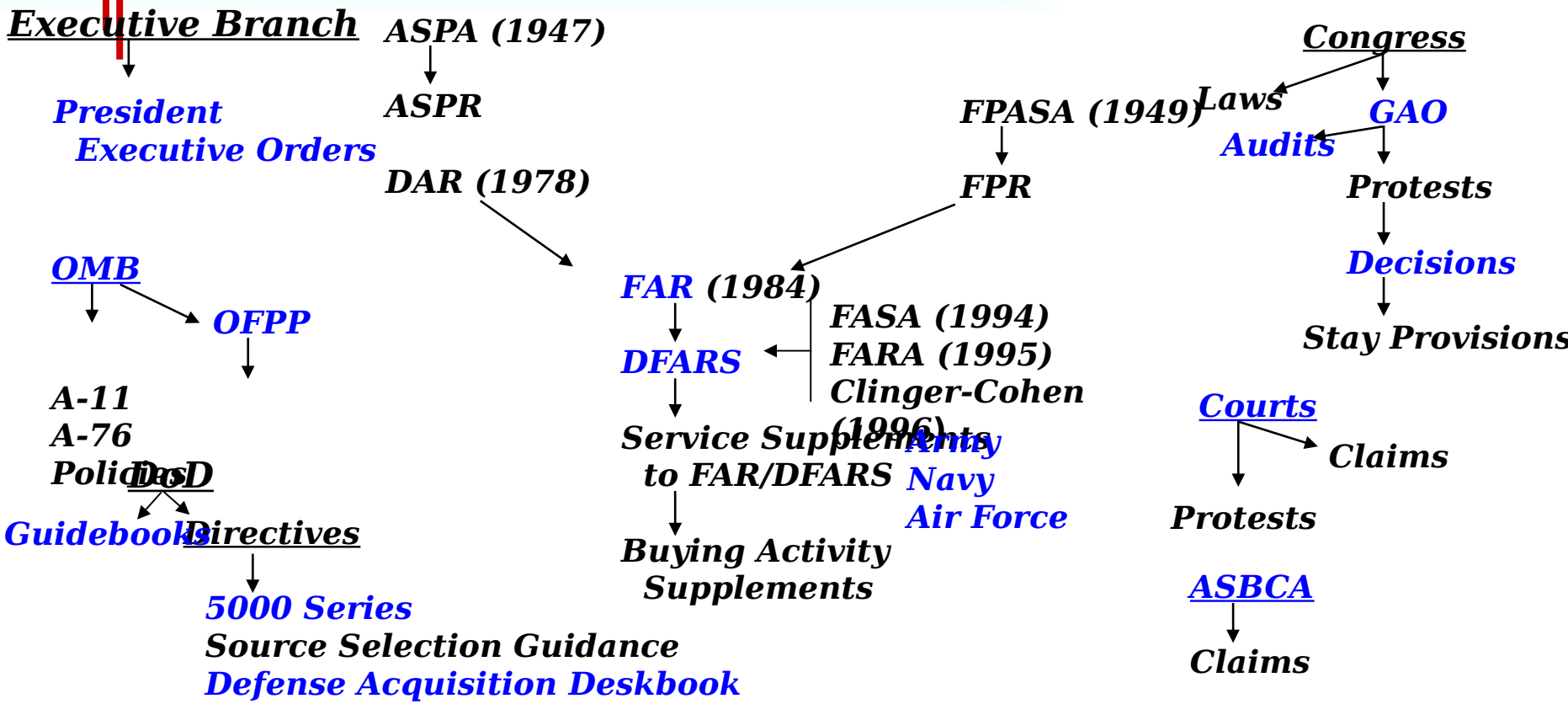
Contracting Environment

Flow of Authority



Contracting Environment

Oversight and Guidance



OMB-Office of Mgt & Budget, OFPP-Office of Federal Procurement Policy, ASBCA- Armed Services Board of Contract Appeals, ASPA- Armed Services Procurement Act, ASPR- Armed Services Procurement Regulation, DAR-Defense Acquisition Regulation FAR- Federal Acquisition Regulation, DFARS- Defense Federal Acquisition Regulation Supplement, FPASA- Federal Property & Administrative Services Act, FPR- Federal Procurement Regulation, FASA- Federal Acquisition Streamlining Act, GAO- General Accounting Office

Contracting Environment

Guiding Principles

In exercising initiative, Government members of the Acquisition Team may assume if a specific strategy, practice, policy or procedure is in the best interests of the Government and is not addressed in the FAR nor prohibited by law (statute or case law), Executive order or other regulation, that the strategy, practice, policy or procedure is a permissible exercise of authority.

FAR 1.102(d)

Acquisition Planning
(FAR Part 7)

- **Market Research**
- **Commercial Items**
- **Competition**
- **Contracting Methods**
- **Socio-Economic Programs**
- **Contract Types**

Acquisition Planning

Market Research (FAR Part 10)

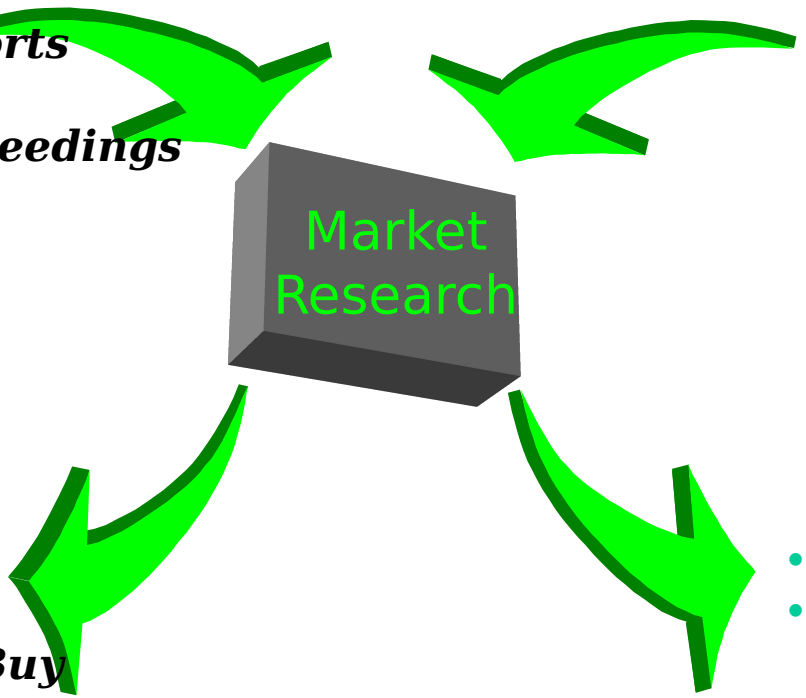
What Is It?

Market Surveillance

- ***Ongoing Familiarity With a Market***
  - ***Trade Shows***
  - ***Research Reports***
  - ***Trade Journals***
  - ***Symposia Proceedings***

Market Investigation

- ***Collect, Evaluate & Analy***
- ***Specific Information t***
  - ***Agency Needs***
  - ***Identify potential sou***
  - ***Survey Manufacturer***
  - ***Analyze Responses***



Product Available

- ***Proceed with***
  - ***Commercial Buy***

- ***Revise Requirement?***
- ***New Development?***

Acquisition Planning

Commercial Items (FAR Part 12)

- ***Clear Preference for Commercial Items***
- ***Certain Laws Not Applicable***
- ***Contract Type***
  - ***FFP or FP(EPA)***

Acquisition Planning

Competition

- **"Acquisition managers shall take all necessary actions to promote a competitive environment…."**
  (DODD 5000.1)

- **"The program manager shall, throughout the acquisition process, promote full and open competition and sustain effective competition between alternative major system concepts and sources, as long as it is economically beneficial and practicable to do so."**
  (FAR 34.005-1)

- **"… contracting Officers shall promote & provide for full and open competition in soliciting offers and awarding Government contracts."**
  (FAR. 6.101)

Acquisition Planning

Competition - Hierarchy

- **Full & Open Competition**
- **Full & Open After Exclusion**
  - **Set Asides**
  - **Alternate Source**
- **Other Than Full & Open Competitio n**
  - **Only One Available Source**
  - **Unusual or Compelling Urgency**
  - **Maintain Mobilization Capability**
  - **International Agreement**
  - **Authorized or Required by Statut e**
  - **National Security**
  - **Public Interest**

Acquisition Planning

Methods of Contracting

- Micro Purchases
  - <$2,500
  - no competition necessary
  - the Government-wide commercial credit card - preferred method for purchase and payment
- Simplified Acquisition Procedures
  - $2,500 - $100,000
  - Electronic Commerce is preferred means
  - Reserved for small business
  - Can use for commercial item < $5M

Acquisition Planning

Methods of Contracting

- Sealed Bidding
  - –requirements are easily understood
  - –expect competition
  - –no discussion required
  - –review responsiveness and responsibility

- Contracting by Negotiation
  - –competitive
  - –non-competitive
  - –opportunity for discussions
  - –best value consideration

Acquisition Planning

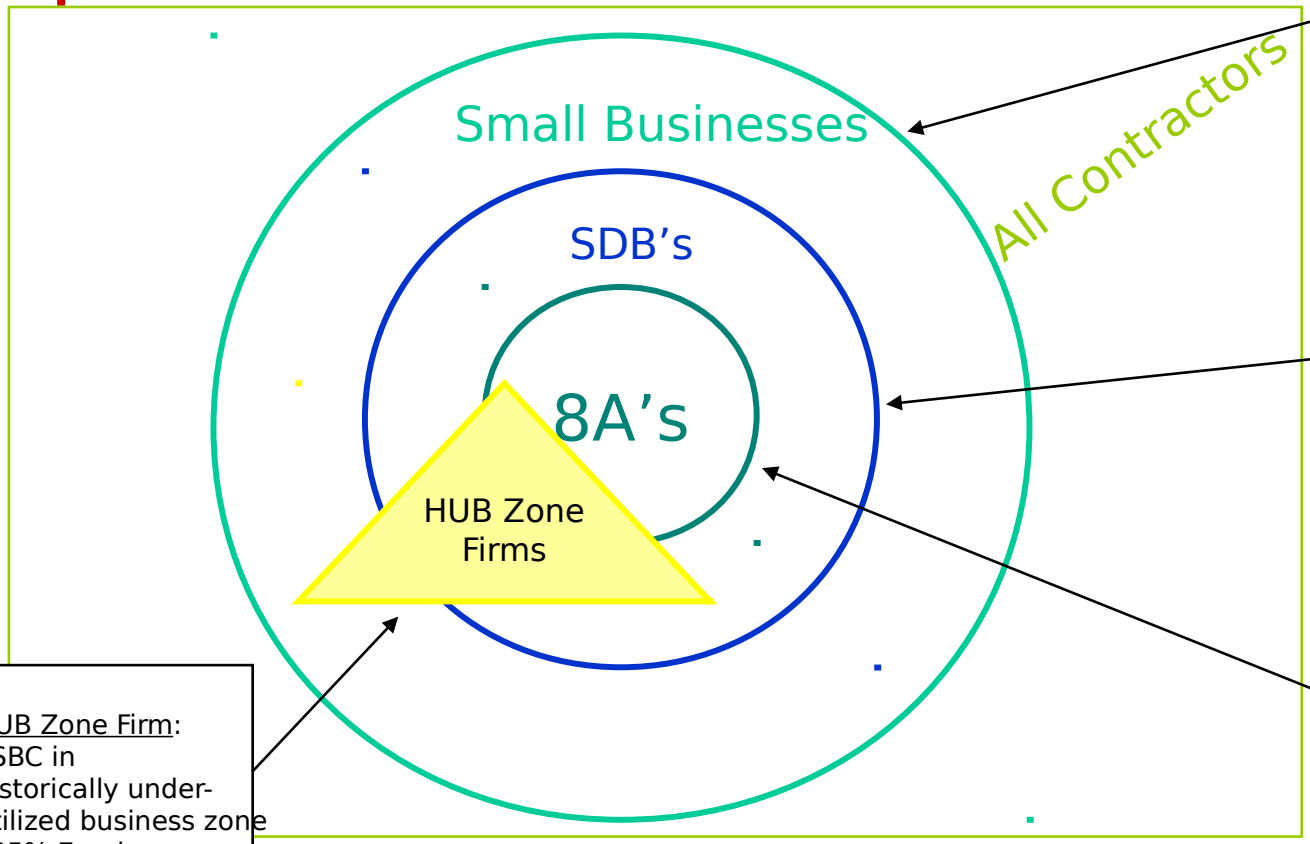
Methods of Contracting - Alternatives

- Federal Supply Schedule (FSS)
- Blanket Purchase Agreements (BPA)
- Multiple Award Schedule (MAS)
- Government Wide Agency Contracts (GWAC)
- Other Transaction Authority (OTA)

Acquisition Planning

Socio-Economic Programs

www.sba.gov



Small Business:
- Independently owned and operated
- Not dominant in its field
- Meets size standards in Part 19.102

Small Disadvantage Business:
- Small business
- At least 51% owned & managed by person or persons who are socially & economically disadvantaged

8A Contractor:
- SDB
- Approved for participation in 8A program by SBA

HUB Zone Firm:
- SBC in historically under-utilized business zone
- 35% Employees reside in zone

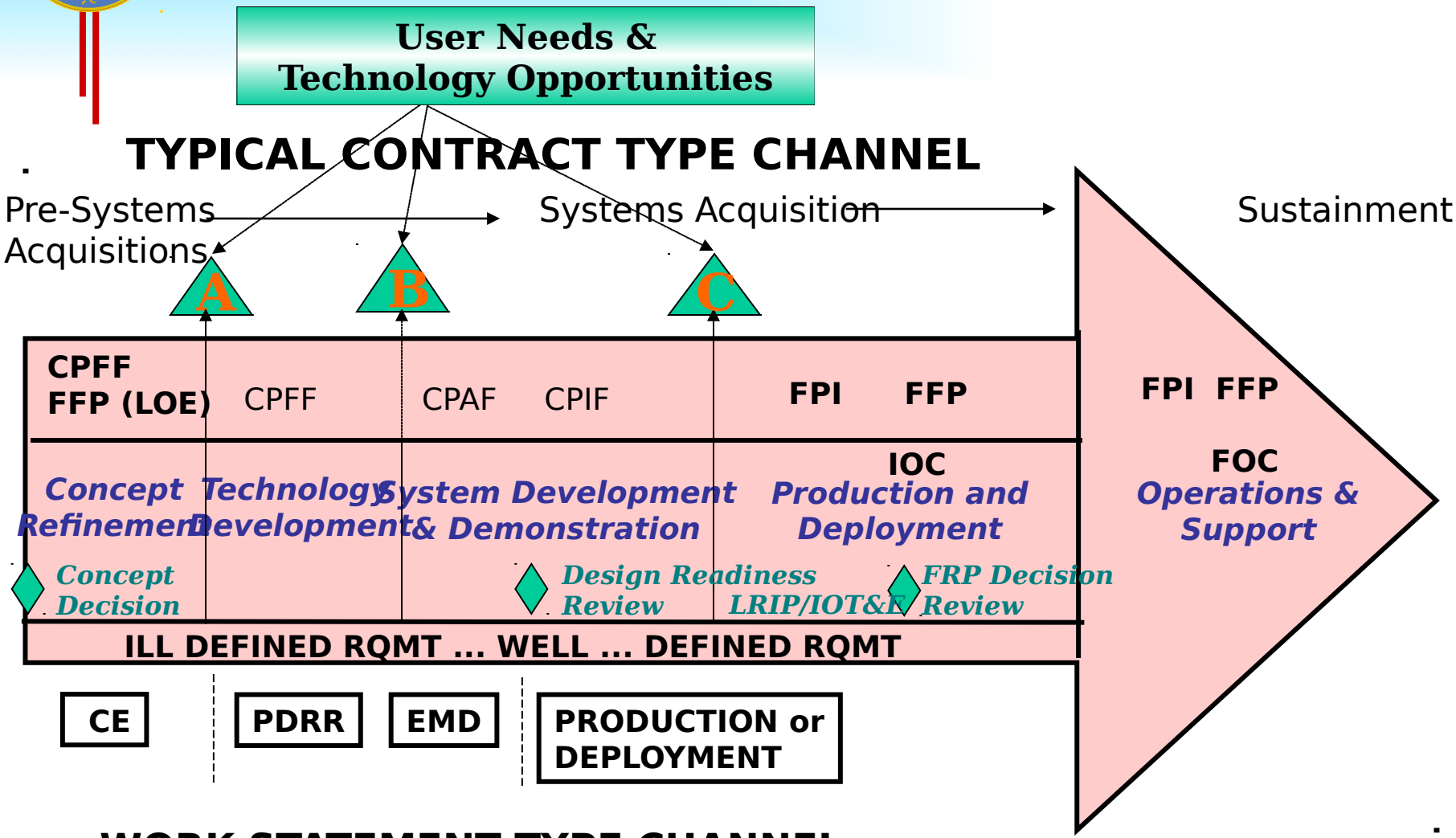
Acquisition Planning

Contract Types - Characteristics

	Cost		Fixed Price
Promise Deliver		**Best Effort**	
Risk to Contractor	**Low**		**High**
Risk to Government	**High**		**?**
Cash Flow	**Cost Incurred**		**On Delivery**
Progress Payments	**----**		**Yes**
Performance Based Payments Preferred		**----**	
Administration		**High**	**Low**
Fee/Profit	**Periodic**		**On Delivery**

Acquisition Planning

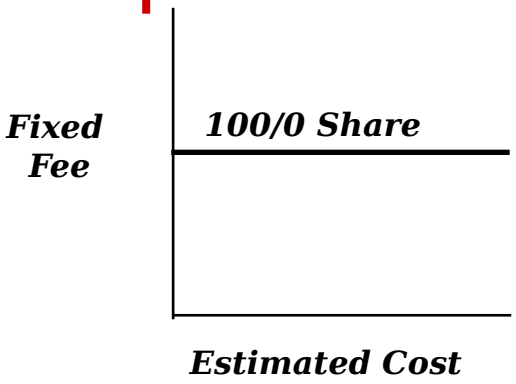
Contract Types - Major Systems Continuum



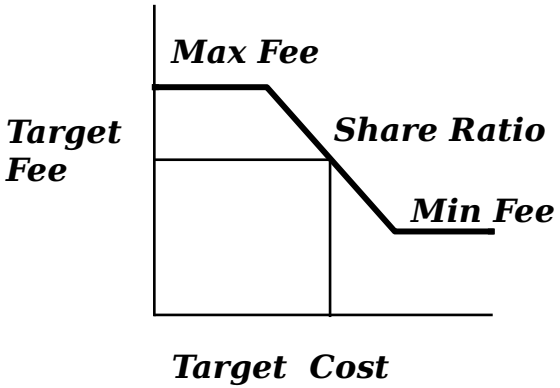
Acquisition Planning

Contract Types

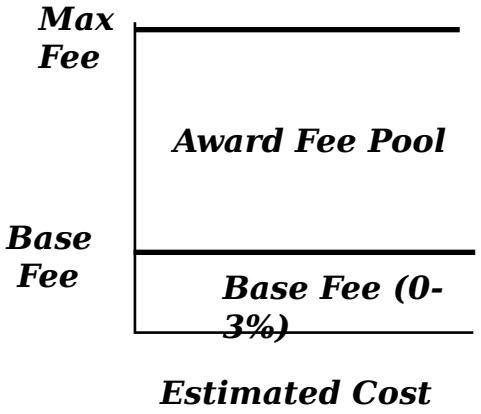
CPFF



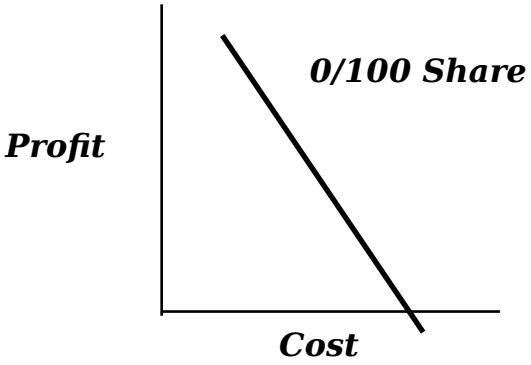
CPIF



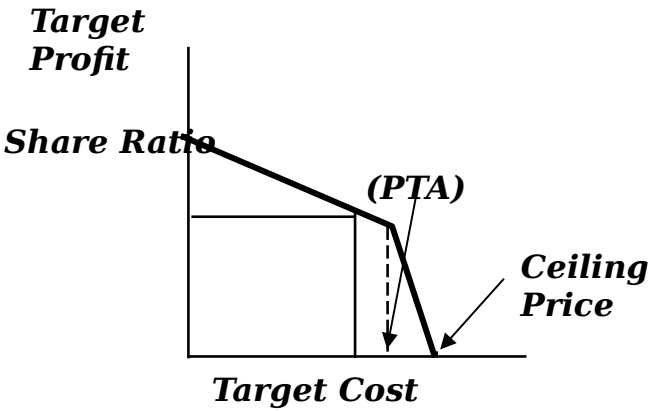
CPAF



FFP



FPIF



Multiple Incentive

Acquisition Planning

Contract Types - Incentives

- Cost
- Schedule
- Performance
- Multiple Incentives

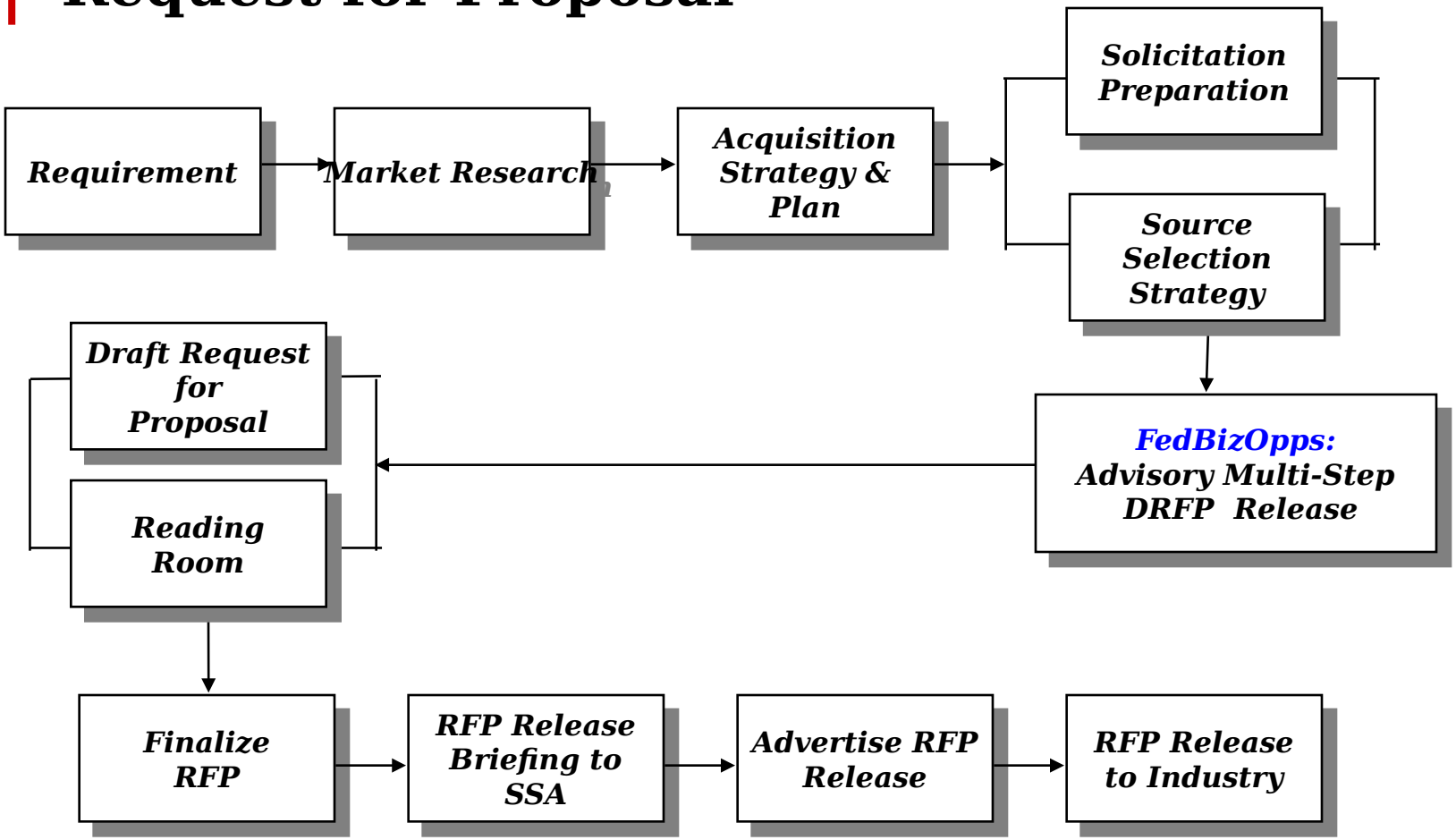
Selecting the Source

- Pre-Solicitation Process
- Uniform Contract Format
- Source Selection Policies
- Post-Solicitation Process
- New Contract/New Work
  - Traditional Approach
  - Alpha/One Pass Approach

Selecting the Source

Pre-Solicitation Process

Request for Proposal



Selecting the Source

Uniform Contract Format

Part I The Schedule

- A **Solicitation/Contract Form**
- B Supplies or Services & Prices or Costs
- C Specification/SOW/SOO/ORD
- D Packaging & Marking
- E Inspection & Acceptance
- F Deliveries or Performance
- G Contract Administration Data
- H Special Contract Requirements

Part II Contract Clauses

- I Contract Clauses

Part III List of Documents, Exhibits, & Other Attachments

- J List of Attachments

Part IV Representations & Instructions

- K Representations, Certifications, & Other Statements
- L Instructions, Conditions, & Notices to Offerors or Quoters
- M Evaluation Factors for Award

Selecting the Source

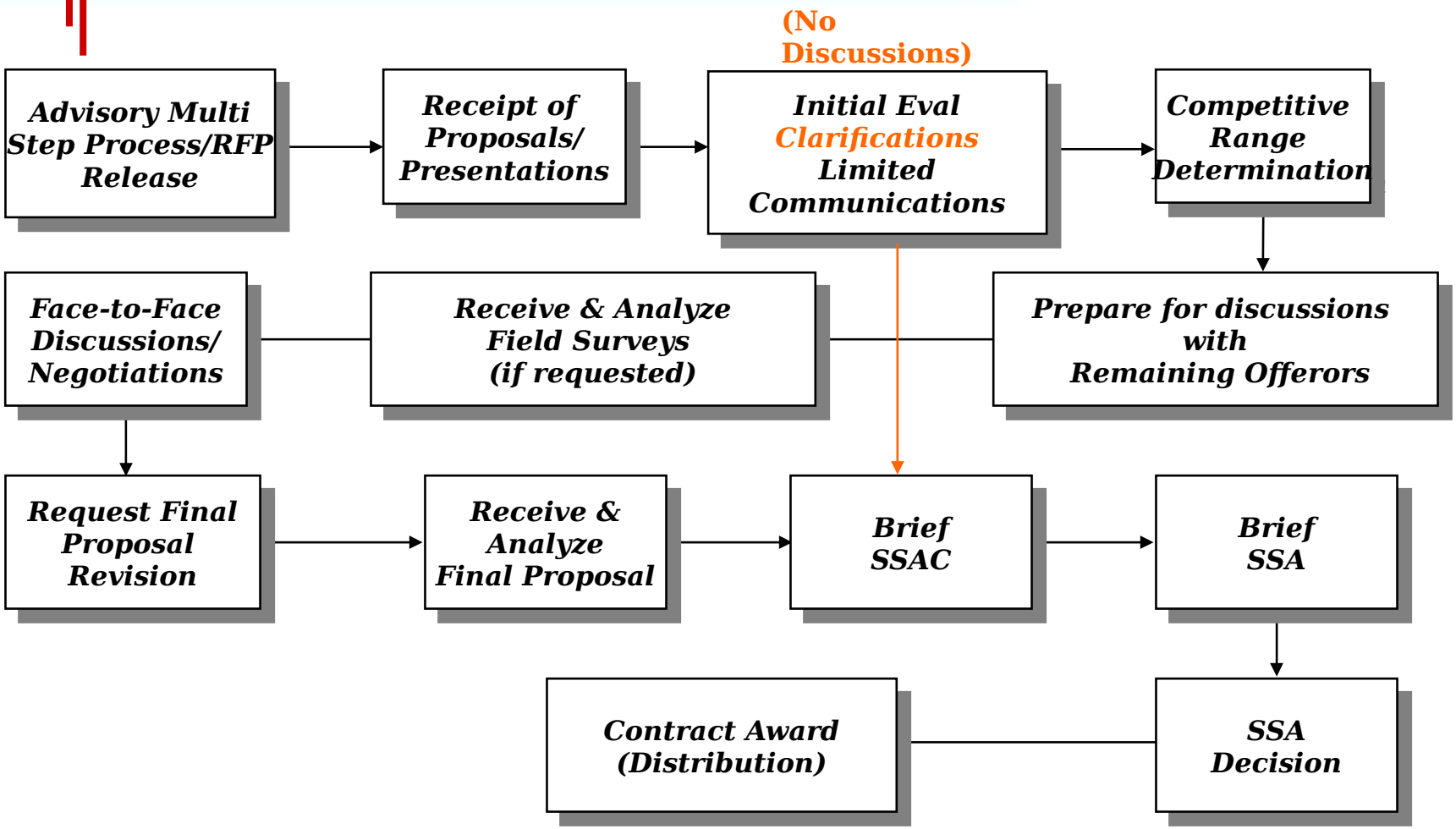
Source Selection Policies

- Minimize Complexity of the Solicitation, Evaluation, and Selection Decision
- Ensure Impartial Evaluation of Proposals
- Select Source/Sources with Best Value to the Gov't
- All contractors and prospective contractors shall be treated fairly and impartially, but need not be treated the same.

FAR 15.002,15.101-1,1.102-2

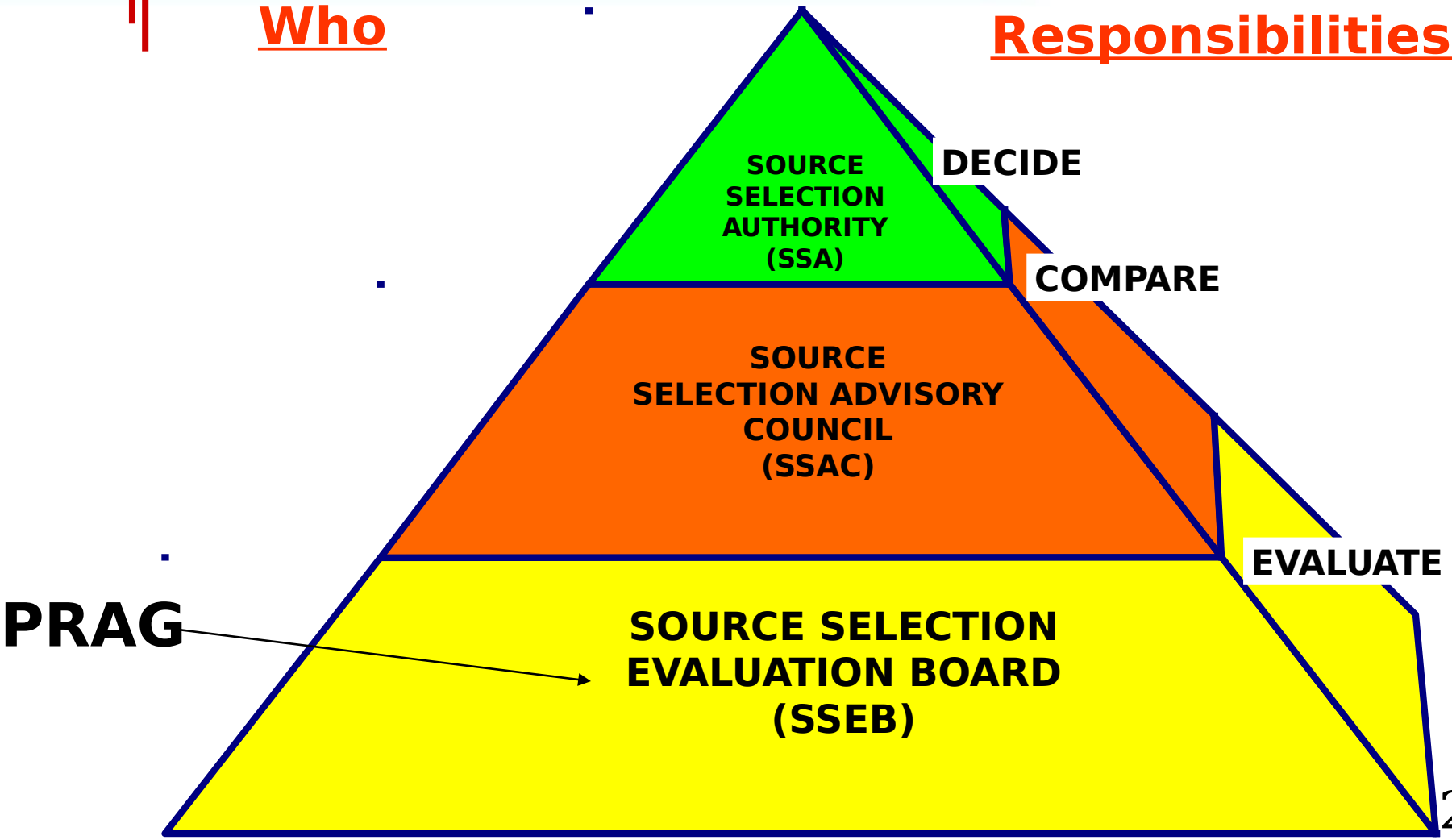
Selecting the Source

Post-Solicitation Process



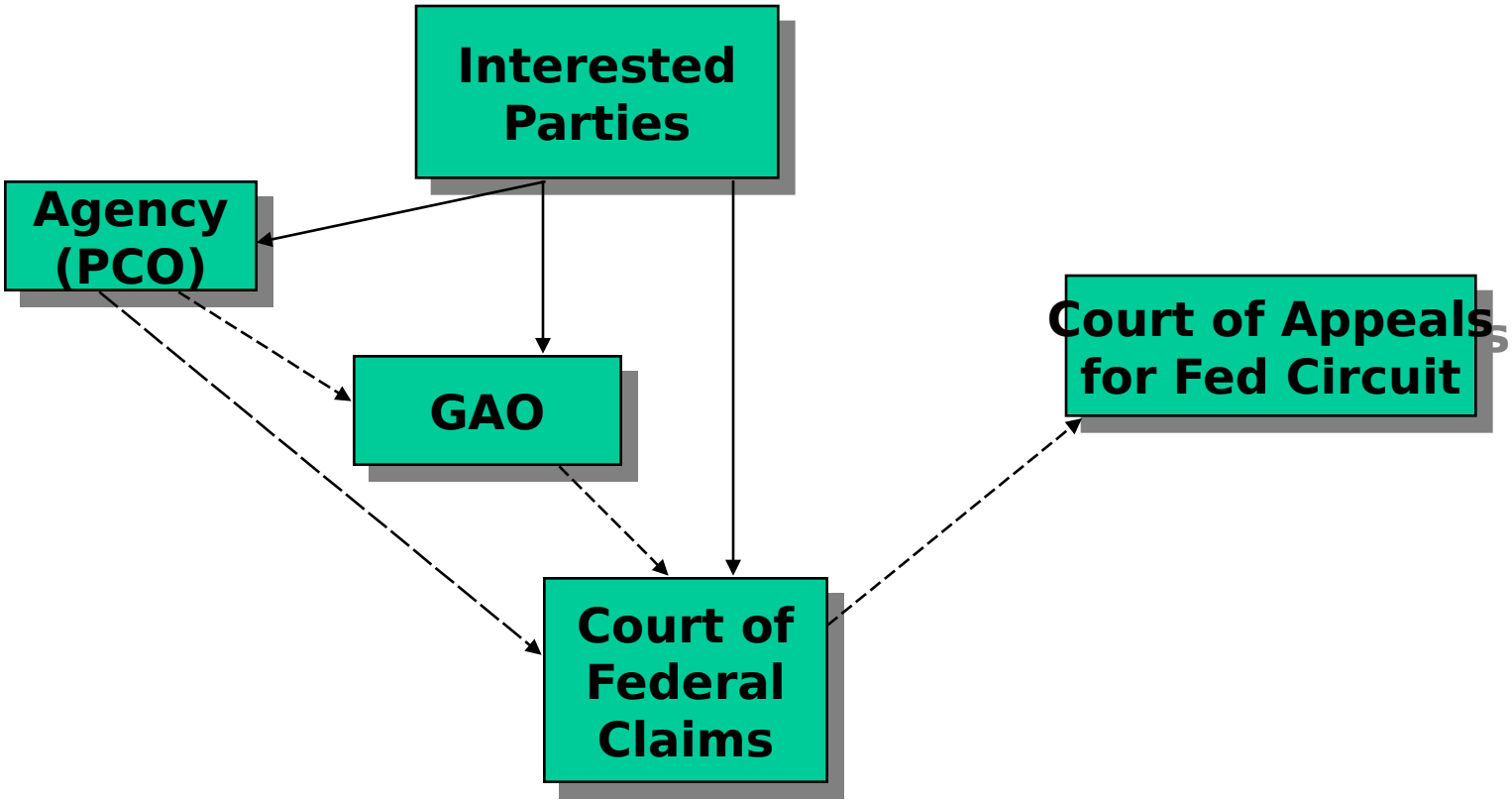
SOURCE SELECTION
Organization

Who **Responsibilities**



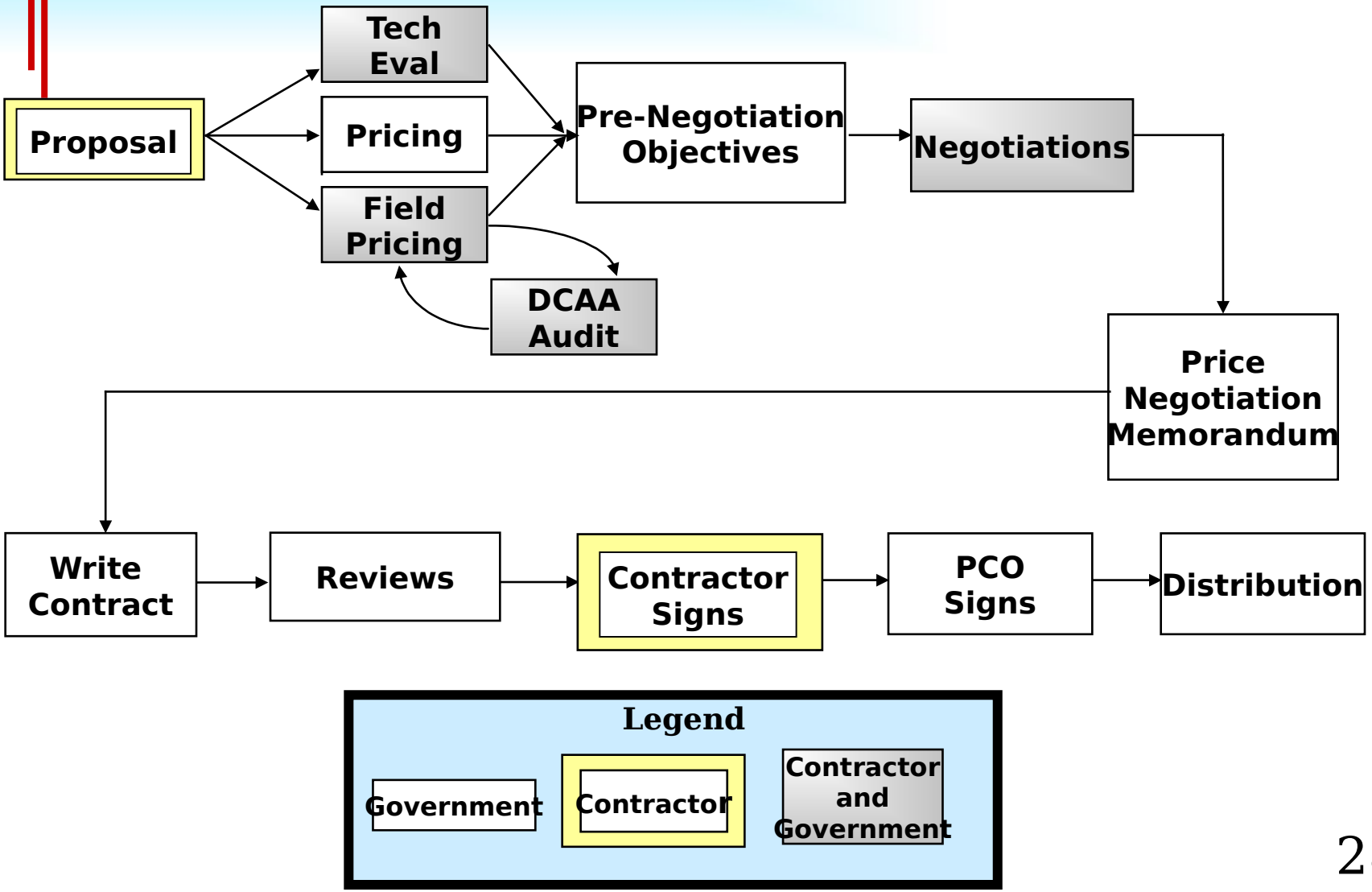
SOURCE SELECTION

Protest



Selecting the Source

Traditional Approach (Non-Competitive)



Selecting the Source

Alpha /One Pass

Selecting the Source

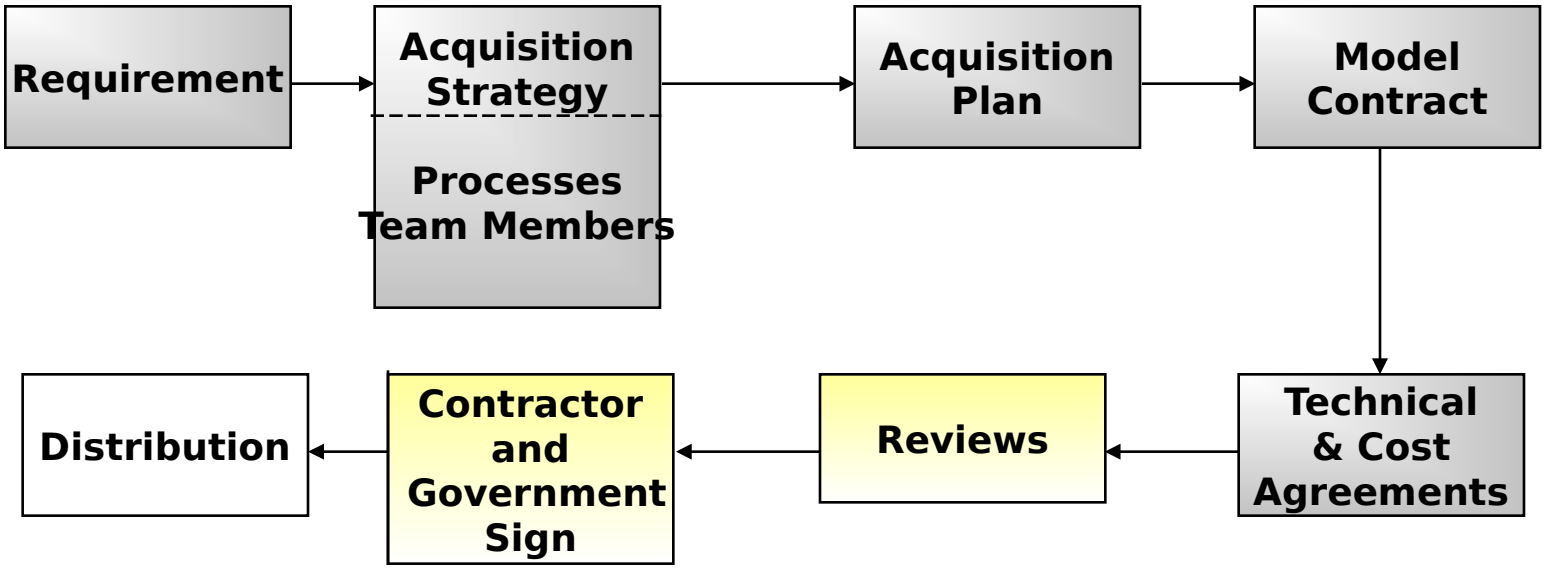
Alpha/One Pass

Relies on a Team Approach

- To concurrently develop a scope of work
- Price that scope of work
- Prepare a contract to execute that scope of work

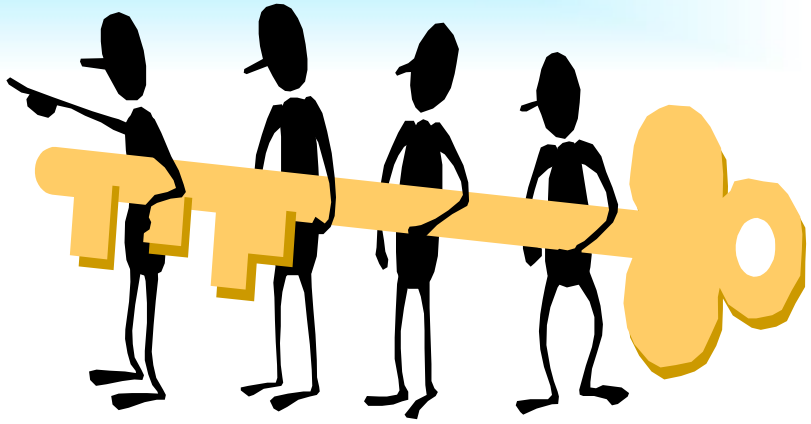
Selecting the Source

Alpha/One Pass (Sole Source)



Selecting the Source

Alpha/One Pass – Keys to Success



- Management Commitment
- Trust
- Honesty
- Empowerment

Contract Administration

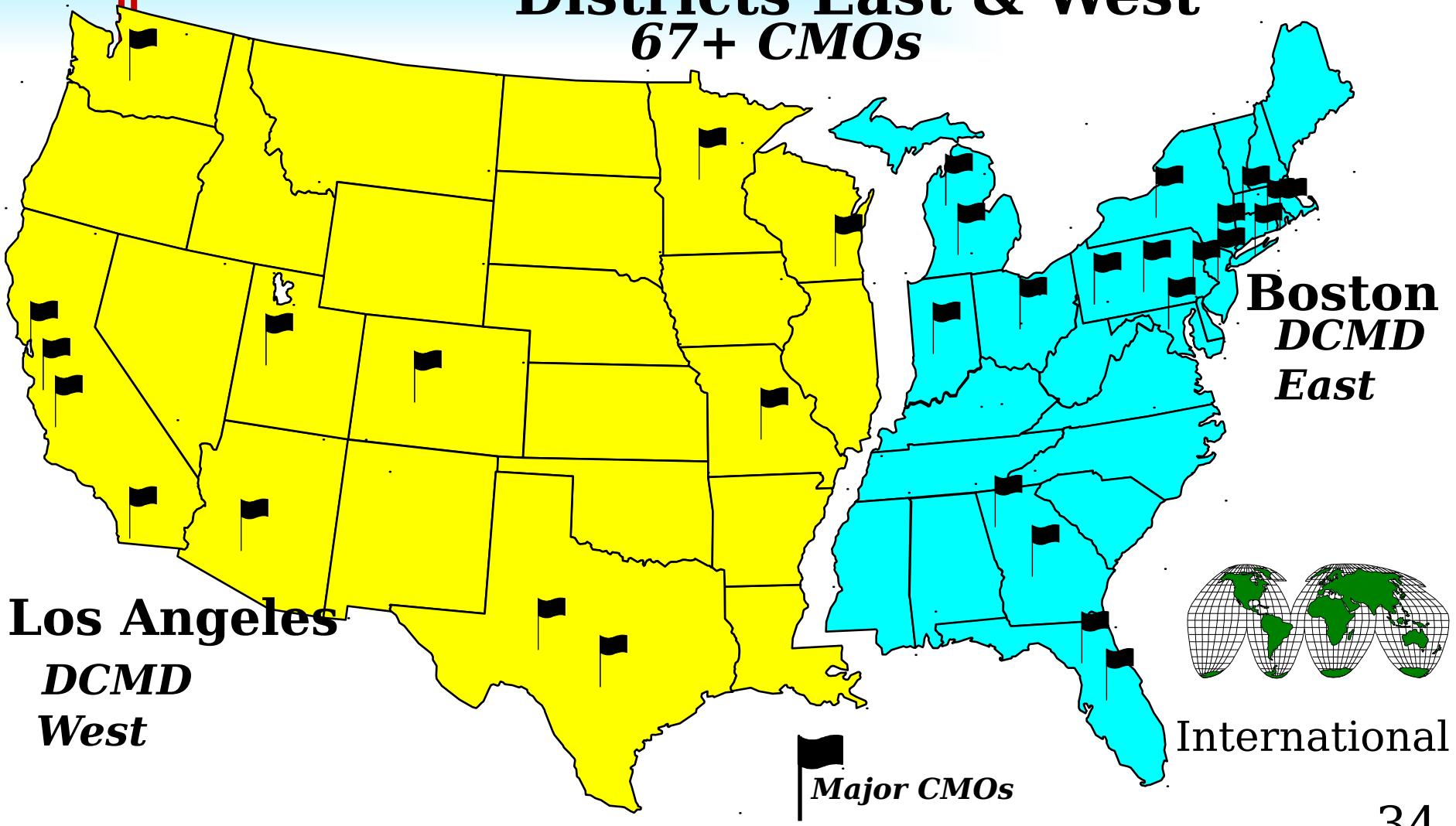
- DCMA
  - Locations
  - Functions
- Modifications
  - Constructive Change
- Disputes
- Alternative Dispute Resolution
- Termination for Convenience
- Termination for Default
- Contract Closeout

Contract Administration

Defense Contract Management Agency

Districts East & West

67+ CMOs



Contract Administration

Functions

- **FAR 42.302 Lists 70 “normal” Functions**
  - **10 additional functions are frequently delegated**

- **Most Functions Fall into 1 of 7 Categories**
  - **Contract Administration**
  - **Pricing/Negotiations**
  - **Program Integration**
  - **Property Management**
  - **Quality Assurance**
  - **Engineering Surveillance**
  - **Production Surveillance**

Contract Administration

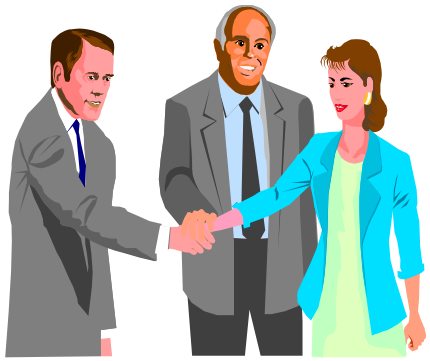
Contract Modification

TYPES OF CONTRACT MODIFICATIONS

- **UNILATERAL**
- **BILATERAL**

Change Order

Administrative

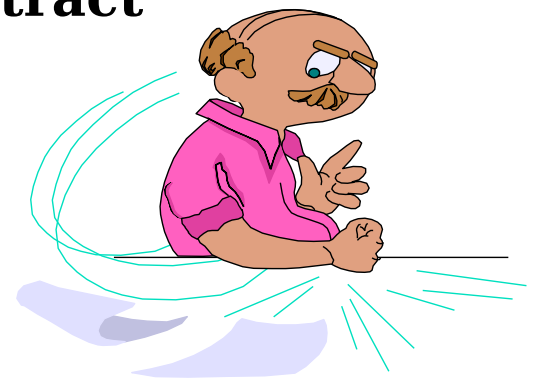


Supplemental Agreement

Contract Administration

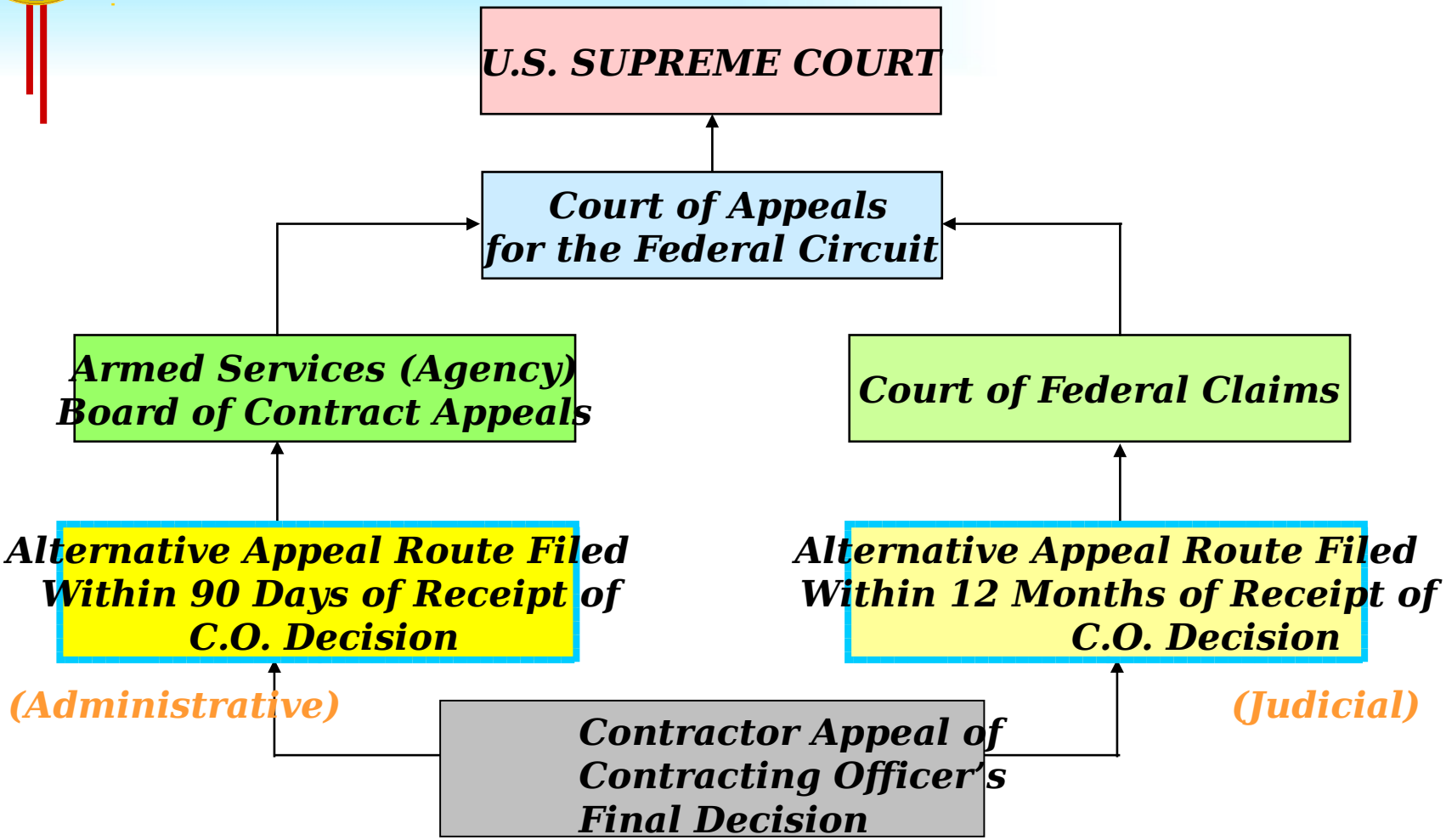
Contract Modification - Constructive Change

- **Oral or written act or failure to act by authorized Government official construed by contractor as having same effect as a written change order**
- **Must involve:**
  - **Change in performance beyond minimum contract requirements, and**
  - **Word or deed by Government representative which requires contractor effort that is not a necessary part of the contract**
- **Requires Ratification**



Contract Administration

Disputes Appeal Process


U.S. SUPREME COURT
Court of Appeals for the Federal Circuit
Armed Services (Agency) Board of Contract Appeals
Court of Federal Claims
Alternative Appeal Route Filed Within 90 Days of Receipt of C.O. Decision
Alternative Appeal Route Filed Within 12 Months of Receipt of C.O. Decision
(Administrative)
(Judicial)
Contractor Appeal of Contracting Officer's Final Decision

** Use of Alternate Dispute Resolution (ADR) is Preferred*

Contract Administration

Alternative Dispute Resolution

Any procedure or combination of procedures voluntarily used to resolve issues in controversy without the need to resort to litigation.

Contract Administration

Alternative Dispute Resolution - Contract Tool

- No Perfect Contracts; Unforeseen Problems Occur
- Litigation Takes Too Long; Costs Too Much
- Collaborative (21st Century) versus Adversarial (1980s)
- Structured Conflict Management Clears Obstacles; Enables Joint Mission Success

Contract Administration

Alternative Dispute Resolution - Methods

Arbitration: Impartial third party issues final binding decision.

Mediation: Neutral third party serves as an advisor to determine mutual interests and defines best and worst alternatives to a negotiated agreement. May also be called Conciliation.

Minitrials: Each party makes presentations to a panel comprised of senior executives from each side and a neutral party. Panel attempts to work out an equitable agreement.

Fact-finding: Impartial third party examines the issues and submits a report with recommended settlement.

Contract Administration

Termination For Convenience

- **Unilateral Government Right**
- **Notice of Termination Must Be in Writing**
- **No Justification is Required**
- **May Be Partial or Complete**

Contract Administration

Termination For Default

- Government May Terminate for Default if Contractor Fails To:
  - Make Timely Delivery
  - Perform Any Other Contract Provision
  - Make Progress & Thereby Endangers Performance
- Government Pays Contract Price for Completed Supplies
- Government May Obtain Reprocurement Costs

Contract Administration

Contract Close Out

- Must assess physical completion to undertake close-out
- Physical completion occurs when:
  - All required deliveries are completed, inspected and accepted
  - All options have expired
  - Government has given the contractor a notice of termination

Contract Administration

Contract Close Out

- Close out includes
  - disposition of classified material
  - disposition of Government property
  - final patent & royalty reports are cleared
  - a plant clearance report is received
  - interim or disallowed costs are settled
  - price revisions are complete
  - subcontracts are settled by the Prime